

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CORNEL JACKSON,

Plaintiff,

v.

TYSON POUGE,

Defendant.

Case No. 1:24-cv-00585-JLT-EPG (PC)

ORDER REQUIRING PLAINTIFF TO SHOW
CAUSE WHY HIS IFP APPLICATION
SHOULD NOT BE DENIED

(ECF No. 6)

RESPONSE DUE BY NO LATER THAN
JULY 12, 2024

Plaintiff Cornel Jackson is a *pro se* inmate at the Madera County Jail in this civil rights case filed under 42 U.S.C. § 1983 on May 16, 2024. (ECF No. 1). This case is before the Court on Plaintiff's application to proceed *in forma pauperis* (IFP), filed on June 7, 2024. (ECF No. 6). For the reasons given below, the Court will require Plaintiff to show cause why his IFP application should not be denied.

The Court normally requires a \$405 filing fee for a civil action. However, a federal statute, 28 U.S.C. § 1915, permits a plaintiff to commence a lawsuit without prepaying a filing fee. This statute requires "an affidavit that includes a statement of all assets such prisoner possesses that the person is unable to pay such fees or give security therefor." § 1915(a)(1). In addition to filing an affidavit, a prisoner "shall submit a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint or notice of appeal, obtained from the appropriate official of each prison at which the prisoner is or was confined." § 1915(a)(2).

In reviewing an IFP application, a court is "entitled to consider [a plaintiff's] own

economic choices about how to spend his money.” *Olivares v. Marshall*, 59 F.3d 109, 112 (9th Cir. 1995). For example, the Court can consider that a plaintiff prisoner thought it more worthwhile to spend his money on commissary items than to pay the filing fee for his civil rights suit. *Id.* Likewise, another court has concluded that a “Plaintiff’s decision to give his income away, while seemingly admirable and certainly within his prerogative, should not consequently require the Court and taxpayers to bear the burden of paying Plaintiff’s filing fee.” *Strojnisk v. Panera Bread Co.*, No. 1:22-CV-00682-JLT-BAK (SAB), 2022 WL 2287274, at *8 (E.D. Cal. June 24, 2022), *report and recommendation adopted*, (E.D. Cal. July 8, 2022).

With these standards in mind, the Court notes that Plaintiff filed the standard IFP application. (ECF No. 6). He checks the box indicating that he is employed, but for the space asking for the amount of his pay, he provides no dollar amount; rather, he writes “commis[s]ary” in the space. (*Id.* at 1). He also indicates that he receives money from other sources, writing “that he received a settlement of \$4,000, which was signed over to his brother to be distributed to his children.” (*Id.*, minor alterations).

In short, it appears that, rather than use his pay from his employment for the filing fee in this case, Plaintiff intends to spend his money on the commissary. Likewise, rather than spend a portion of his \$4,000 settlement on the filing fee, Plaintiff chose to give it all to his family.

Accordingly, the Court will order Plaintiff to show cause why his IFP application should not be denied given that he has chosen to spend or give away his money rather than pay the filing fee.

Accordingly, IT IS ORDERED as follows:

1. By no later than July 12, 2024, Plaintiff shall file a response to this order, showing cause why his IFP application should not be denied.

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2. If Plaintiff fails to timely respond to this order, he is advised that this case may be dismissed.

IT IS SO ORDERED.

Dated: June 12, 2024

/s/ Eric P. Groj
UNITED STATES MAGISTRATE JUDGE